Joint Reply Affidavit of G. Mitchell Wilk and Steven M. Fetter

1. My name is G. Mitchell Wilk. I am President of Wilk & Associates, Incorporated, a public policy research and consulting firm located in San Francisco, CA. I am a former Commissioner and President of the California Public Utilities Commission. I described my other qualifications and experience in the joint affidavit I filed with Mr. Fetter in support of Ameritech's application in this proceeding.

2. My name is Steven M. Fetter. I am Senior Director and Group Manager of the Global Power Group at Fitch Investors Service, L.P. (Fitch), a credit rating agency based in New York City. I am a former Commissioner and Chairman of the Michigan Public Service Commission (MPSC). I also described my other qualifications and experience in the joint affidavit I filed with Mr. Wilk in support of Ameritech's application in this proceeding. As indicated in the previous joint affidavit, the views expressed are my own and do not represent Fitch policy judgments or positions in any way.

3. The purpose of this reply affidavit is to respond to various public interest criticisms that have been made in briefs and affidavits by parties opposing Ameritech Michigan's application to provide interLATA services. Generally, we find these arguments to be unsupported and made without reference to the facts of the regulatory oversight of Ameritech Michigan.

Other arguments are exaggerated or even histrionic, or in some cases illogical or irrelevant. In summary:

- Opponents seek to define the Section 271 "public interest" test as equivalent to a requirement for "effective competition" in the local service market. To the contrary, Congress chose not to include such a standard in the enactment of Section 271 despite the aggressive lobbying of BOC competitors, and it would be contrary to the public interest and outside the confines of the Act to attempt to institute it now.

- Opponents assert that interLATA entry will produce a sea-change in the presumed motives of Ameritech Michigan towards its competitors, leading inevitably to extensive anticompetitive misbehavior that regulators either could not recognize, and/or would be powerless to stop. This tired allegation ignores the long history of local exchange telephone company regulation because (1) Ameritech Michigan's circumstances already give rise to all kinds of presumed incentives for market misbehavior that regulation effectively restrains (including those that might be associated with interLATA entry), and (2) the instruments of regulation that today restrain those presumed incentives will be no weaker or less discerning post-entry. Indeed, the degree to which some opposition affiants blithely ignore the facts of actual Michigan regulatory oversight is remarkable.

- Opponents assert that important standards remain unestablished for assessing Ameritech Michigan's compliance with its mandated obligations towards competitors, and that the ever-evolving nature of telecommunications will permit Ameritech Michigan to stonewall its competitors' requests under cover of technological ambiguity. But this claim is belied by the success of Michigan regulation in adapting to changing standards and market expectations, as well as the very arguments of opponents who already appear able to discuss such issues in concrete-enough terms to demonstrate that such standards can be developed and effectively applied. And on a philosophical level, an argument to deny entry because of the complications of technological change is really an argument for a permanent interLATA ban -- an advocacy position obviously made obsolete by the Telecommunications Act.

Thus, either taken individually or collectively, the arguments of the opposition do not tip the public interest balance, which continues to favor approval of Ameritech Michigan's application as we described in our joint affidavit.

4. In the sections that follow, we undertake a representative review of the various opposition pleadings that present these arguments, and recount the logic and facts that rebut them.

"Effective Competition" Is Not An Appropriate Test for InterLATA Entry

5. Certain opposition affiants and briefs look at the "public interest" test of Section 271 and read into it a requirement that Ameritech Michigan prove the presence of "effective competition" before interLATA entry can be authorized.[1/] However, there is no such requirement in the Act, it is not necessary given the protections of regulation, and attempting to impose such a standard on Ameritech Michigan's interLATA entry would prove administratively burdensome, and harm the public interest.

6. Notwithstanding the intensive lobbying of BOC opponents such as incumbent interexchange carriers, Congress chose not to include an "effective competition" test for

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[1/] Effective competition, or its equivalent, is the sole standard accepted by former Judge Bork (e.g., Affidavit paragraphs 2-6), and Professors Hubbard and Lehr (e.g., Affidavit pages 9, 82). Mr. Baseman and Dr. Warren-Boulton go one step further in appearing to insist on "widespread, effective facilities-based local competition," as the standard for interLATA entry, although their discussion is somewhat unclear (e.g. Affidavit, pages 5, 33-38). Professor Baumol would require either that local exchanges become "fully and demonstratively competitive," or the adoption of "reliable and effective safeguards to remove any incentive for or ability by the BOCs to engage in discrimination in the pricing and provisioning of bottleneck facilities," based on experience with "effective UNE-based competition" (Affidavit, page 27). Professor Shapiro believes that "interconnection agreements must be demonstrated to be working in practice on a commercial scale" in order to satisfy the public interest test (Affidavit, page 2). Professor Hall endorses "active competition in local telephone service for all groups of customers" (Affidavit, page 87). Professors Bernheim, Ordover and Willig suggest either a "market power" or "regulatory" approach, with the former standard appearing similar to an effective competition test (Affidavit, pages 6-9). With respect to briefs or comments, AT&T endorses an "effective competition" standard (Comments, pages 39-45) as does MCI (Comments, page 37), while Sprint asks that local markets be "irreversibly opened to competition" (Petition to Deny, page 9).

interLATA entry in the Telecommunications Act. Indeed, Congress explicitly rejected "metric" tests of competition in its adoption of the Telecommunications Act, and also rejected proposed requirements for "a substantial number of both business and residential customers" served by competing local service providers, or a threshold market share loss test.[2/] Similarly, the Act's adopted checklist includes no measures of market share, market power, or the "effectiveness" of competition. Yet, MCI claims that an effective competition test is somehow buried in these provisions:

> "Congress insisted there be effective competition for local telephone service before the BOC in-region long distance restriction could be lifted because it was relying on that competition to provide market-based discipline to protect the long-distance market." (MCI Comments, page 37)

However, MCI's assertion is clearly contrary to the plain language of the Act, and its selectively-cited quotes from the floor debate are wholly unpersuasive and irrelevant. Indeed, if Congress had intended an effective competition test, it had the option before it, and could have imposed one, or even used the phrase in the statute. It didn't.

7. Nor is an "effective competition" test easy to administer, as former Commissioner Wilk can affirm from personal experience. In 1985, the CPUC instituted Investigation (I.) 85-11-033 to review its regulatory framework for the intrastate, interLATA market. Essentially, this was an inquiry into the ongoing regulation of AT&T in light of its dominant position in the California interLATA market immediately after divestiture. The central question of the

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[2/] Brief in Support of Application by Ameritech Michigan for Provision of In-Region, InterLATA Services in Michigan, page 63.

investigation was whether AT&T had market power, and whether such market power could be exercised to the detriment of customers in the absence of regulation or if AT&T were permitted increased pricing flexibility or other forms of lessened regulatory oversight. Extensive analyses were submitted by a number of economists in that proceeding, with the economists for AT&T generally asserting that AT&T lacked market power and that competitive forces could be relied upon to discipline its pricing, while other economists (including those representing AT&T's IXC competitors) generally averred that AT&T had market power that it could leverage to the detriment of customers and the competitive process. Mr. Wilk was the Assigned Commissioner for this proceeding. Ultimately, he and his colleagues recognized that it would be very difficult, if not impossible for a regulatory agency to predict in transitional markets whether AT&T retained market power that it could exercise once regulatory restrictions were lifted, since there was no pattern of prior, unrestrained conduct by AT&T to evaluate. Many of the opposing economic experts relied on the same basic facts (such as market shares) to reach opposite conclusions on a theoretical basis that could not be tested except by removing regulation and seeing what resulted in the market. To that end, the CPUC decided to adopt the "Observation Approach" for intrastate interLATA market regulation, by which it provided flexibility to AT&T under the injunction that the flexibility would be rescinded if AT&T exercised market power to the detriment of the public interest.[3/] This was a practical resolution that avoided the need to make a very difficult, if not impossible predictive regulatory determination regarding market power where

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[3/] See CPUC Decision 87-07-017.

a prior monopoly telecommunications provider faced increasing competition from smaller, but growing competitors.

8. Were the FCC to redefine the "public interest" standard to be a test of market power (as these parties and affiants propose), the FCC would find itself in a very similar position as did the CPUC in 1987: Facing a very likely ongoing circumstance of a regulated prior monopolist holding a majority share of a market while facing increasing competitive inroads from well-financed, sophisticated competitors, while lacking any observed data about how that market would actually function in the absence of regulation. In that case, the record of expert economic opinions the FCC would obtain in any "market power" proceeding will likely be very similar to what the CPUC weighed in 1987, with opposing experts potentially using those same circumstances of market share and hypothesized competitive dynamics to argue both the plausible presence, and absence, of market power. As former Commissioner Wilk and his colleagues experienced, the FCC would confront a very difficult challenge in attempting to sort out these opposing opinions that need not be based on any difference in the underlying facts.

9. However, the FCC can avoid this difficult administrative problem because the public interest requires no such test of market power for interLATA entry; indeed, the opposite is true, that imposing such a standard would harm the public interest by delaying the competitive and consumer benefits of Ameritech Michigan's interLATA entry in exchange for no corresponding gain. This is because ongoing regulation is fully capable of restraining

and remedying any potential abuse of any Ameritech Michigan market power. While they differ with us as to the actual efficacy of the regulatory oversight of Ameritech Michigan (a disagreement we return to below), IXC affiants Professor Baumol and Professors Bernheim, Ordover and Willig do acknowledge that sufficient regulation would tilt the public interest balance in favor of Ameritech Michigan's entry,[4/] and Professor Shapiro appears to conclude that current regulation, if supplemented with the commercial experience with interconnection agreements he advocates, would satisfy the public interest.[5/] For our part, we would also agree with these IXC affiants that competition is almost always preferable to regulated monopoly, although Ameritech Michigan no longer merits the "monopoly" label, and as a factual matter regulation in this instance is up to the task assigned to it by Congress and the citizens of Michigan. We also note that Professor Schwartz, filing on behalf of the Department of Justice in the SBC Oklahoma interLATA application, agreed that an "effective competition" standard is neither present in the Act nor warranted by the public interest.[6/]

Incentives Are Not Destiny: Opponents Ignore The Reality of Regulation

10. A second category of opposition criticism and complaint derives from theoretical economic analysis of new malicious incentives that Ameritech Michigan might have if

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[4/] See again Baumol Affidavit, page 27, and Bernheim, Ordover and Willig Affidavit, pages 6-9.

[5/] Shapiro, pages 2, 5, 7.

[6/] Schwartz, pages 52-53.

permitted to provide interLATA services. The general line of argument is that Ameritech Michigan will discover new motives to treat interexchange carriers and competing local providers badly because of the purported advantages such actions would create with respect to Ameritech Michigan's new interLATA business. Therefore, the argument continues, Ameritech Michigan will act on these incentives to cause harm to competition, because regulation is incapable or unwilling to stop such actions. The opposition affidavits are replete with this assertion.[7/]

11. As an initial observation, we note that the Department of Justice is evidently not persuaded by these assertions of regulatory infirmity, since the Department's Evaluation does not appear to endorse any of these concerns.[8/] Neither, it would appear, is the MPSC persuaded of these alleged shortcomings in the regulatory framework, which is particularly noteworthy given that agency's ongoing responsibility for regulatory oversight of Ameritech Michigan (which includes dealing with any problems that would actually occur due to interLATA authority).[9/]

[7/] See, for example, the entirety of Baumol, and Bork, and Baseman and Warren-Boulton; sections II, III, V and VII of Hall; sections I, II, III.B., IV.B., and VII of Hubbard and Lehr; sections II, IV, V, and VII of Bernheim, Ordover and Willig.

[8/] Evaluation of the United States Department of Justice, CC Docket No. 97-137, June 25, 1997.

[9/] Consultation of the Michigan Public Service Commission, CC Docket No. 97-137, June 9, 1997.

12. Before providing specific responses to these claims, we would also note that many of these claimed incentives are disputed in this proceeding, as is the extent to which Ameritech Michigan may or may not actually have local market power today. Those issues are addressed by other Ameritech Michigan experts. Obviously, as local exchange market power diminishes, so do related concerns with Ameritech Michigan's interLATA entry even in the absence of regulation.

13. For our purposes, we assume that Ameritech Michigan does retain substantial local exchange market power, in which case at least some of the theories expressed by opposition affiants would be of potential concern. But the way to test these theories is against the facts of regulatory oversight, and this is where the opposition showing falls down badly. At best, opposition affiants cite selectively from the Michigan regulatory experience and the related protections of Michigan and Federal law; at worst, some appear to pay no heed to <u>any</u> specific facts regarding the regulation of Ameritech Michigan. When one does turn back to the facts, it becomes apparent that Ameritech Michigan has long been restrained by regulation from acting on improper incentives related to monopoly power, and that regulatory oversight will neither change in character nor lose any of its authority or ability to discern, punish or remedy violations after interLATA entry by Ameritech Michigan. To the contrary, regulatory oversight is substantially enhanced by the 1996 Act.

14. As former regulators, we find that it is a surreal experience to read these affidavits and see repeated instances where it is alleged that Ameritech Michigan would routinely disobey

laws and regulatory rules with apparent impunity. In so many examples, when one gets to the stage in the scenario where regulatory intervention or punishment would occur, there is simply a gap and the affiant goes on to the next horrible act into which interLATA freedom will supposedly entice Ameritech Michigan. For example, according to former Judge Bork, here is a sampling of what BOCs (including Ameritech) can accomplish with regulatory impunity or even acquiescence:

- "..disadvantage independent long-distance carriers severely and perhaps decisively by the manner in which they price access to their networks and by delaying or degrading services on which long distance carriers depend." (page 6)

- "..capture profits illegitimately through various forms of discrimination, including discrimination in pricing, in provisioning, and in the use of competitively important information." (page 6)

- "..file new tariffs at will [for access services used by IXCs], thus unilaterally changing any or all of the rates. The complexity and rapidly changing nature of this situation means that a BOC can present a moving target for regulators, filing discriminatory tariffs so that its long-distance affiliate pays less than independent long-distance carriers must pay." (pages 6-7)

- "..attribute some of the costs and expenses of its long-distance operations to its local exchange services. This would result in higher rates to those making local calls, because regulators allow local monopolies to cover their costs and expenses and make a profit." (page 9) Indeed, local rates could be pressed "..towards the full monopoly level" (page 10)

And the litany goes on, as this affidavit describes numerous other improper and illegal acts he asserts would become business as usual, and which have not occurred until now simply because Ameritech Michigan has not desired to use its "discretion" to undertake them (page 6). Where would the Michigan Public Service Commission, the FCC or Ameritech Michigan's competitors be during all this? Apparently, either incompetently ignorant or

unresponsive (e.g. pages 6, 10-11), or ruling in favor of Ameritech Michigan whenever its improper actions were challenged (page 13). Mr. Bork specifically states that regulators could be sympathetic to such conduct:

> "Indeed, if a particular BOC were being underpriced in long-distance, state regulators would feel considerable pressure to accept cost data that made "their" BOC competitive in those markets." (page 11)

These characterizations fly in the face of our own experience as regulators, including Mr. Fetter's experience serving on and chairing the Michigan PSC, as well as our extensive review of Michigan regulation we undertook for this proceeding. Whatever former Judge Bork believes he is describing, it is most certainly not public utility regulation at the Michigan PSC or the FCC. Indeed, except for a few generalizations about the pre-divestiture AT&T, his affidavit is devoid of any references to evidence of such flagrant abuse. He also ignores the particular statutory prohibitions against such conduct both at the Federal level and in Michigan, the history of Michigan policy and decided cases on competitive issues, and anything else relevant to a specific evaluation of the applicable regulatory oversight. Such facts, as we documented at considerable length in our joint affidavit, are of course critical to understanding how regulation has performed and will respond to Ameritech Michigan's interLATA entry.

15. But the Bork affidavit is not unique -- other opposition affidavits also assert that Ameritech Michigan would simply act upon its supposed adverse incentives uninhibited by regulatory or statutory prohibitions, or associated consequences. Neither, for the most part,

do opposition affiants undertake any substantial review of Michigan regulation, or even provide citations to more than a few, isolated cases before the MPSC. Thus, for example, Professors Baumol [10/] and Hall [11/] offer only brief passing references to Michigan law and regulation. Slightly more is offered by references to a few cases by Professors Hubbard and Lehr,[12/] Bernheim, Willig, and Ordover,[13/] and Mr. Baseman and Dr. Warren-Boulton.[14/] However, what is striking is what is not there. Notwithstanding the extensive resources evidently put into preparing the opposition showing, there is no record of regulatory favoritism toward Ameritech Michigan, nor evidence of any shortcomings in the Michigan regulatory framework. Neither is there any new or substantial record of anticompetitive complaint cases decided against Ameritech Michigan.[15/] Of course, this is no surprise to us

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[10/] Baumol, page 26.

[11/] Hall, pages 13, 28.

[12/] Hubbard and Lehr, pages 38-43 (citing two MPSC rejections of Ameritech Michigan cost studies, referencing the 1+ dispute, and referring to Bernheim and Willig's description of US Signal's complaint).

[13/] Bernheim, Willig and Ordover, pages 41-42.

[14/] Baseman and Warren-Boulton, pages 16, 20.

[15/] In particular, we were dismayed by the mischaracterization of the 1+ presubscription dispute that occurs in a number of places in the opposition showings. A good example is the Baseman and Warren-Boulton affidavit, which first incorrectly asserts that Ameritech "ignored" the MPSC's order, then acknowledges that the matter was appealed while criticizing Ameritech Michigan for not concurrently implementing an order it believed unlawful. This characterization fails to acknowledge (1) the principal basis for the appeal, which is whether the date of the Michigan Telecommunications Act or the MPSC's order is applicable to the Telecommunications Act's exception to the general rule that 1+ intraLATA presubscription should not precede BOC interLATA entry, (2) the obvious and substantial competitive advantage an IXC would gain from being able to bundle 1+ traffic within and between LATAs before a BOC can offer interLATA services, a fact that led to the

based on our experience with, and review of Michigan regulation -- but it highlights the weakness and unreliability of sweeping generalizations about alleged weaknesses of regulation based on little or no real evidence about the Michigan jurisdiction.

16. By contrast to these unsupported assertions, we would briefly refer the reader back to our joint affidavit, which establishes clearly and factually that Ameritech Michigan has been, and is now restrained by regulation from acting on any potential market power it may have, or from imposing its will on regulation in response to incentives it may experience. For example, Ameritech Michigan's basic service prices are still constrained by the Michigan statutory price cap, even though profit-maximizing basic service prices would presumably have been far higher in the past (and would possibly also be higher today, notwithstanding competition). Both Michigan and the FCC have effectively regulated access charges, including reducing them on an ongoing basis. As a general matter, we cannot imagine that Ameritech Michigan's overall pattern of prices reflects what it would charge were it free to price at will. Over time and today, the terms on which Ameritech Michigan interconnects with its competitors are different in many ways from those it has sought or proposed, due

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Telecommunications Act provision in question, (3) important court actions, including the December 4, 1996 Michigan Court of Appeals stay of the June and October 1996 MPSC Orders (based on a finding by the Court of a likelihood of success on the merits by Ameritech Michigan), and the subsequent refusal (on January 14, 1997) of the Michigan Supreme Court to lift the stay, and (4) the fact that 70 percent of the Michigan market does have 1+ intraLATA presubscription today under Ameritech Michigan's compliance plan. Instead, Baseman and Warren-Boulton claim that this represents "Ameritech's refusal to accommodate market-opening regulations," a clearly incomplete and misleading characterization. (Baseman and Warren-Boulton, pages 16, 20).

directly to regulatory decisions and the Telecommunications Act. These points again contradict the basic premise of the opposition argument that Ameritech Michigan has the ability to act on new or changing incentives in contradiction to its regulatory strictures, much less do so in any meaningful way without detection and regulatory intervention.

17. Neither will the authorization of interLATA authority for Ameritech Michigan impair regulatory authority in any fashion. There is nothing in the applicable law, rules or regulatory orders of either the Federal or Michigan jurisdiction that suggests that Ameritech Michigan will gain any exemption from existing regulatory requirements or scrutiny through offering interLATA services. Indeed, as our joint affidavit documented, the opposite will occur, as additional regulatory protections become effective (such as the periodic audit requirement, and the separate subsidiary). One can be sure that between Ameritech Michigan's regulators and competitors, there will be exceptional vigilance to uncover any wrongdoing or problems.[16/] Indeed, about the worst thing Ameritech Michigan could do when it receives permission to offer interLATA services would be to commit related abuses;

[16/] In that respect, we note Mr. Baseman and Dr. Warren-Boulton's overwrought response to their misreading of our joint affidavit. They characterize as "truly silly" an argument they attribute to us that if customers can detect the effects of discrimination, then so can regulators (Affidavit, pages 59-60). While the argument they cite would be silly, it is not what we said: "It is difficult to imagine how any such degradation, if attempted surreptitiously by Ameritech with the intent of affecting other carrier's customers, could be accomplished undetected by Ameritech's technically-sophisticated competitors," and, "In order to create an adverse impact upon competition in these markets, any related misconduct by Ameritech would have to be substantial, and accordingly would become readily apparent to regulators and competitors alike." (Wilk-Fetter, pages 45, 17, emphasis in original). Of course, the regulators would readily be informed by the competitors, as we have described.

regulators will be especially eager to punish such transgressions following a high-profile (and controversial) grant of new authority that may be alleged to be the source of such a problem. Regulators will be as much "on the line" as anyone, since they would bear the ultimate political responsibility for any adverse consequences that might result from their approval of Ameritech Michigan's interLATA authority. This accountability will encourage them to grant Ameritech Michigan no dispensations with respect to related wrongdoing.

18. Finally, we would observe that Ameritech Michigan already competes to a considerable extent against IXCs in various services, as Professors Gilbert and Panzar have described. While interLATA authority will clearly expand the extent of that competition, it is important to recognize that Ameritech Michigan already faces, to at least some degree, the incentives it will face once all competitors are authorized to compete in all markets. If these incentives were going to result in dysfunctional consequences, the evidence of meaningful abuse should already be abundant, but it is not. This is yet another reason to discount dire predictions that assume a radical change of some kind from the status quo.

19. Thus, the Commission should not be persuaded that competition in Michigan will become hostage to the consequences of a set of new theoretical incentives to inflict harm due to interLATA entry. As a matter of experience and common sense, even if such incentives were to emerge, Ameritech Michigan will have no ability to translate them into any meaningful abuse outside of the scrutiny of competitors and regulators. The opponents of

interLATA authority have produced essentially nothing in the way of actual facts about Michigan regulation to suggest the contrary.

Regulation Has Adapted and Will Continue to Adapt to Change

20. Another expressed concern relates to the ability of regulation to cope with change, and to produce updated standards for assessing Ameritech Michigan's compliance with regulatory requirements in the face of new technologies. A related issue is the role of regulators in overseeing new business relationships between competitors and Ameritech Michigan (especially where affirmative efforts may be required on Ameritech Michigan's part). Those opposition affiants who insist on a standard of "effective competition" cite these concerns as one reason they believe regulation is incapable of policing Ameritech Michigan's actions effectively.

21. We can offer several responses and perspectives with respect to these concerns. First, while it may be something of a truism, it is important to remember that the telecommunications industry has been continuously changing since its inception, and that every expert we know believes it will continue to change well into the future. For example, productivity analysis of the local exchange industry tends to show that it has generated sustained, above-average productivity improvements for many decades, and anyone can name numerous innovations that have come into widespread use in recent memory (e.g. fiber optics, digital switching, digital wireless services, packet switching, etc.). While there may

be good reason to believe that we stand at the threshold of even more change and technological improvement, such has also been the case at many junctures in the past, including during our recent service as regulators. The single fact of history and experience is that regulation has dealt with substantial change in this industry on an ongoing basis -- in fact, such circumstances have been the rule, rather than the exception. Today is no different. To argue that interLATA authority should be delayed until change settles down is to argue for a near-permanent bar on BOC entry. In the alternative, opponents argue that the regulatory issues of intercompany relationships would be mooted once effective competition exists for local exchange services. While it is true that competition ends the rationale for monopoly-style regulation, that is still no reason to delay further the customer benefits of Ameritech Michigan's interLATA entry when regulatory safeguards are sufficient, as they are here.

22. Second, there are at least two kinds of standards that may be involved in future interconnection or competitive cooperation issues. The distinction we have in mind is between technical and operational performance standards, with the latter encompassing questions of reasonable time frames, best efforts, and other measures of the enthusiasm and cooperation two firms are experiencing within their relationship.

23. With respect to issues of cooperation on a technical basis, we would observe that industry standards are generally developed for new technologies that are commercially deployed. Additionally, a significant development of the last 15 years has been the

propagation of technical expertise throughout the industry through the growth of sophisticated competitors like MCI, Sprint, independent competitive access and wireless providers, not to mention AT&T (as well as the challenges incumbent LECs may pose to each other). Regulators used to face something of a hurdle in obtaining access to technical expertise to verify (or challenge) the assertions of the former monopoly local exchange companies. Today, regulators routinely benefit from the proximity and expertise competitors bring to bear in helping to oversee incumbent LECs, and the clash of regulated interests is such that opposing expertise is certain to be provided to the regulatory process with respect to virtually any significant technical issue. So we do not believe that access to technical information for the ongoing development of intercompany cooperation standards will be a substantial regulatory concern, regardless of interLATA entry by the BOCs.

24. The other type of standards that may apply to interconnection or inter-company relationships are those for operational performance. In our experience the regulatory process can readily cope with establishing standards, and requiring monitoring (where needed) to assure fair treatment of competitors. For example, service quality requirements that BOCs will be required to uphold for their competitors are somewhat analogous to those enforced for basic service customers (which, of course, have been created and enforced despite at least some theoretical BOC incentives to avoid, or complicate their establishment). And as with technical standards, there is no shortage of enthusiasm on the part of qualified competitors to assist regulators with specific suggestions for performance standards. Additionally, we would observe that the hundreds of interconnection agreements that have been reached

nationwide between LECs and their competitors already contain a range of specific standards.

25. Thus, the implication of the opposition criticism is incorrect -- we do not see anything unique about the information needed for standards-setting that would be learned in the absence of interLATA authority, but somehow lost if authority is granted now.

26. Finally, we would respond to concerns that the ongoing establishment of standards in response to new technological developments will require time and effort to complete through regulation. It is our understanding that the creation of new industry standards requires time, money and experience no matter how it is performed, even in the complete absence of government regulation. The real question is whether there is some extraordinary new incentive, and corresponding ability to affect the regulatory standards-setting process, that will inure to Ameritech Michigan's benefit once it is granted authorization to provide interLATA services. Again, for reasons we have explained at some length, the answer is "no," and therefore the benefits of interLATA entry should not be delayed further in the name of ongoing standards development.

27. Thus, we believe that further and appropriate progress in the development of inter-company arrangements (such as operational support systems, or OSS) as well as standards for their regulatory oversight in response to new technological developments will not be frustrated or delayed by approval of Ameritech Michigan's application to provide interLATA services.

Conclusion

28. After having reviewed the opposition showing, the assessment we provided in our joint affidavit remains correct -- that regulatory controls will prevent harm to competition and customers that could possibly be related to Ameritech Michigan's provision of interLATA services. The opposition affidavits and arguments to the contrary are unsubstantiated by facts regarding Michigan law and regulation, and unpersuasive by comparison to the realities of the regulatory oversight of Ameritech Michigan. It is time to advance the public interest by giving Michigan consumers the additional interLATA service choices that they deserve, and which Congress paved the way for them to enjoy.

I hereby swear, under penalty of perjury, that the foregoing is true and correct, to the best of my knowledge and belief.

G. Mitchell Wilk

Subscribed and sworn before me this 1 day of July, 1997.

SUSAN C MC INTYRE
Comm. # 1079317
NOTARY PUBLIC - CALIFORNIA
City & County of San Francisco
My Comm. Expires Dec. 3, 1999

Notary Public

My Commission expires: _____.

I hereby swear, under penalty of perjury, that the foregoing is true and correct, to the best of my knowledge and belief.

Steven M. Fetter

Subscribed and sworn before me this 3 day of July, 1997.

PATRICIA A. O'NEIL
Notary Public, State of New York
No. 01ON5025661
Qualified In Kings County
Commission Expires April 4, 98

Notary Public

My Commission expires: April 4, 1998.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of Application of Ameritech Michigan Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in Michigan	)	CC Docket No. 97-137

Reply Affidavit of H. Edward Wynn on Behalf of Ameritech Michigan

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the matter of	)	
	)	
Application of Ameritech	)	
Michigan Pursuant to Section	)	**CC Docket No. 97-137**
271 of the Telecommunications	)	
Act of 1996 to Provide In-Region,	)	
InterLATA Service,	)	
in Michigan	)	

AFFIDAVIT OF H. EDWARD WYNN
ON BEHALF OF AMERITECH MICHIGAN

STATE OF ILLINOIS)
) **ss.**
COUNTY OF COOK)

I, H. Edward Wynn, being duly sworn upon oath, depose and state as follows:

1. I am Vice President and General Counsel of Ameritech Information Industry Services ("AIIS"), 350 North Orleans Street, Third Floor, Chicago, IL 60654.

2. In that capacity, I am responsible for all Ameritech negotiations under Sections 251 and 252 of the Telecommunications Act of 1996 (the "Act"). I have personally participated in or supervised Ameritech's negotiations with each of the carriers that have requested Interconnection, Resale or access to Unbundled Network Elements under the Act. In particular, I personally participated in all of the substantive negotiations with AT&T and MCI and in all of the negotiations with LCI

regarding its request that Ameritech conduct a trial of its proposed Network Element Platform.

3. Ameritech has successfully negotiated 103 Interconnection Agreements with 46 companies throughout Ameritech's five-state service area.

4. The purpose of my affidavit is to respond to certain claims made by AT&T, MCI and LCI witnesses regarding negotiations with each of those carriers and the Interconnection Agreements Ameritech executed with AT&T and MCI.

I. AT&T

A. Negotiation History

5. As AT&T correctly notes, AT&T requested negotiations under the Act with Ameritech on February 27, 1996. On February 28, 1996, Ameritech responded to AT&T's request and subsequently scheduled an initial negotiation session on March 4, 1997.

6. The negotiations with AT&T were extremely difficult and largely unproductive from the outset. For example, during the initial negotiation session with AT&T, AT&T's attorney "served" me with a document request typical of a request that would be made in a lawsuit or regulatory proceeding. AT&T also gave the impression that it was preparing for litigation by Bates-stamping all documents, a typical litigation practice. Indeed, at the initial negotiation session, AT&T expressed its intention (also repeated by its General Counsel in a Business Week article) that agreement would